

**VIETNAM**



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## New electricity pricing and new sample of PPA of rooftop solar power projects

The number of solar power projects (SPP) in Vietnam has grown quickly in recent years, especially after the Prime Minister promulgated Decision No.11/2017/QĐ-TTg (Decision 11) on April 11, 2017, providing a mechanism for encouraging development of solar power in Vietnam. This Decision took effect from June 1, 2017 and expires on June 30, 2019.

With the expiry date fast approaching, SPP investors are focused on the construction and completion of such SPPs before the benefits of Decision 11 come to an end. There are two main benefits. Firstly, Decision 11 allows SPPs to be eligible for the exemption and/or the reduction of import duties, corporate income tax, land levy, land rent and water surface rent in accordance with application laws of Vietnam (Art 10, Art 11 of Decision 11). Secondly, Decision 11 also provides a compulsory responsibility of Vietnam Electricity (EVN) as an electricity buyer to purchase all of the electricity created by SPPs (Art 9.1 of Decision 11).

Following Decision 11, the Ministry of Industry and Trade (MOIT) issued Circular 16/2017/TT-BCT (Circular 16) on September 12, 2017 regarding project development and sample of power purchase agreements (PPA) mandatorily applied to SPPs, including rooftop solar power projects (rSPPs) and grid-connected solar power project (gSPPs). One of the noteworthy points of Circular 16 is that the investor shall only be

“Decision 11 provides a compulsory responsibility of Vietnam Electricity as an electricity buyer to purchase all of the electricity created by SPPs”

permitted to form a gSPP if it is approved in the provincial or national solar power planning or provincial or national power development planning (Art 10.1 of Circular 16). However, the investor of rSPP shall only need to register the connecting terminal with the electricity company at provincial level for the rSPP having capacity under 1 megawatt (MW) or follow the regulatory procedures for inclusion of rSPP having capacity of 1MW or over in the solar power development planning (Art 11 of Circular 16).

As of March 11, 2019, the MOIT further issued Circular 05/2019/TT-BCT (Circular 05) to amend and supplement a number of articles of Circular 16, which provides a specific electricity pricing and new template of PPA for rSPP. In

particular, the electricity pricing for rSPP prior to January 1, 2018 is unchanged but after January 01, 2018, it shall be adjusted in accordance with the exchange rate between VND/USD as publicly announced by the State Bank of Vietnam (SBV) on the last working day of the previous year (Art 1.1 of Circular 05). The adhesion of exchange rate herein may be an issue for the investor as it may be treated as a violation under Ordinance on Foreign Exchange Control and its guiding regulations. If this was the case, the investor would be subject to a fine up to VND250 million (US\$10,700) (Art 24.6 (c) of Circular 32/2013/TT-NHNN).

Further to Circular 05, the new sample of PPA for rSPP replaces two previous templates of PPA of rSPP as attached in Circular 16 and makes it more preferable on the scope of electricity trading, payment method, rights and obligations of the parties (Art 1.2 of Circular 05). This sample is compulsory for purchasing of electricity by and between EVN and electricity seller for a term of 20 years from the commercial operation of rSPP (Art 7.1 of PPA of rSPP attached in Circular 05). The parties are permitted to supplement some new articles without making any change of the principal contents of this agreement (Art 18.3 of Circular 16). During the term of this agreement, any requirement on amendment of the agreement must be notified to other party 15 days in advance (Art 7.2 of PPA of rSPP attached in Circular 05). The SPP investors, especially for rSPP, should place importance to this Circular and the new sample PPA of rSPP before the effective date of Circular 05 (April 25, 2019).






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